

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Robert D. Lewis,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No. 2:12-cv-0490
	:	
Commissioner of Social	:	JUDGE MICHAEL H. WATSON
Security,	:	Magistrate Judge Kemp
	:	
Defendant.	:	

REPORT AND RECOMMENDATION

On September 25, 2014, the Court issued a Report and Recommendation and Order pertaining to Plaintiff's application for fees under the Equal Access to Justice Act. The Court determined that Plaintiff was entitled to fees, but noted some flaws in the calculation of the appropriate hourly rates, and also made some adjustments in the hours claimed. That Order gave the parties fourteen days either to agree on the rates reflected in the Order or to submit additional documentation. Plaintiff has since stipulated to those rates and waived any further supplementation of the record. The Commissioner has not responded at all.

Technically, if the parties did not stipulate to the hourly rates set forth in the Court's order, it was Plaintiff's burden to come forward with evidence supporting them. The calculation of those rates was, however, based on other orders issued by this Court in similar situations, and the Court is persuaded of their accuracy. It will therefore adopt those rates and recommend a fee award of \$15,151.87, plus costs, although the Commissioner may object to the rate determination as part of any objections to this Report and Recommendation. If that occurs, Plaintiff would be well-advised to supplement the record as part of any response.

For all of the reasons set forth in the prior Report and Recommendation and Order (Doc. 19) and this Report and Recommendation, it is recommended that the Plaintiff's motion for an award of fees under the Equal Access to Justice Act (Doc. 12) be granted in substantial part. Plaintiff should be awarded fees in the amount of \$15,151.87 plus costs in the amount of \$368.87, for a total award of \$15,520.74.

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A judge of this Court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the magistrate judge with instructions. 28 U.S.C. §636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the district judge review the Report and Recommendation de novo, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. See Thomas v. Arn, 474 U.S. 140 (1985); United States v. Walters, 638 F.2d 947 (6th Cir.1981).

/s/ Terence P. Kemp  
United States Magistrate Judge